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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/691,965      | 10/24/2003  | Ronald White         | 03563.0100.NPUS00   | 6984             |

22930 7590 05/04/2005

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| EXAMINER |
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SZUMNY, JONATHON A

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| ART UNIT | PAPER NUMBER |
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3632

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/691,965

Applicant(s)

WHITE ET AL.

Examiner

Jon A Szumny

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6/25/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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This is the first office action for application number 10/691,965, Sports Pole Mounting Structure, filed on October 24, 2003.

*Information Disclosure Statement*

Receipt is acknowledged of Form PTO-1449, Information Disclosure Statement, which has been reviewed by the Examiner.

*Specification*

The disclosure is objected to because of the following informalities:

On page 8, line 22, "details" should be --details of--.

Appropriate correction is required.

*Claim Objections*

Claims 2-9 are objected to because of the following informalities:

In line 1, "A" should be --The--.

Appropriate correction is required.

*Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter that the applicant regards as his invention.

Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the sports pole" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Further regarding line 2 of claim 1, it is not completely clear what an "in-ground sleeve" means. How can one positively recite the "ground"? It is suggested that the applicant modify line 2 to read --a sleeve *adapted to be* mounted in-ground--.

Regarding claims 2, 3, 4, 6, 8 and 9, it appears the applicant is attempting to positively recite the "sports pole" (...the first and second pieces are secured together around the sports pole...", "...the engagement member extending below the sports pole...", etc.); however, the sports pole was merely functionally recited in line 4 of claim 1 ("a bracket *attachable* to the sports pole..."). The applicant must make it clear whether the sports pole is positively or functionally recited as part of the invention. For the purposes of this office action, the Examiner will assume the pole is *positively* recited.

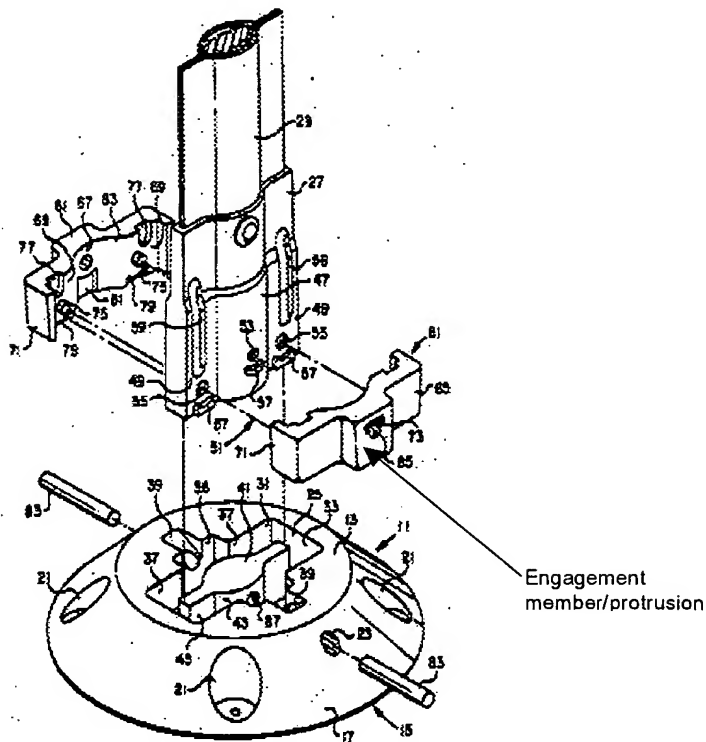
### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent number 5,197,819 to Hughes.



Hughes '819 discloses a pole mounting structure (figure 1), comprising: a sleeve (11,25,27,33) that could inherently be mounted in-ground, a support member (83) mounted within the sleeve, and a bracket attachable (via 27) to the pole (29) and engagable with said support member to support the sports pole and inhibit rotation of the sports pole, wherein the bracket comprises a first piece and second piece (61), the first piece and second piece are secured together around the pole and joined by fasteners (75) located on opposite sides of the pole, wherein at least one of the first and second pieces includes an engagement member (above) that extends below the pole and engages the support member, wherein the engagement member includes at least one protrusion (above) for inhibiting rotation of the pole, wherein the at least

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one protrusion extends substantially below the upper surface of the support member such that the at least one protrusion inhibits rotation of the pole.

### *Allowable Subject Matter*

Claims 5-9 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

Regarding claim 5, the prior art as applied against claim 4 failed to further specifically teach the at least one protrusion to comprise a first protrusion and a second protrusion, the first protrusion and the second protrusion being positioned to receive the support member between the first protrusion and the second protrusion.

Regarding claim 6, the prior art as applied against claim 4 failed to further specifically teach a collar having an aperture and at least one engagement section, the collar receiving the pole through the aperture and the collar being positionable on the pole above the bracket such that the at least one engagement section is engageable with the in-ground sleeve.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Geiger '270, Carroll '559, Byrd '569, Falcon '087, Bachman '441, Bushko '494, Jaden '065, Cuthbert '565, McCarthy '715, Weichenrieder '779, Guislain '779, Soble '882, Frohlich et al. '782 and Roten et al. '361 teach various pole/sleeve/bracket mounting assemblies.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jon A Szumny whose telephone number is (571) 272-6824. The examiner can normally be reached on Monday-Friday 8-4.

The fax phone number for the organization where this application and proceeding are assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-3600.

A handwritten signature in black ink, appearing to read 'Jon Szumny', with a stylized, looping flourish at the end.

Jon Szumny  
Patent Examiner  
Technology Center 3600  
Art Unit 3632  
April 28, 2005